

(vii) Rules for entry to and exit from the Sector, including sanctions and procedures for removing members who do not comply with the operations plan;

(viii) Procedure for notifying NMFS if a member is no longer part of the Sector and the reason for leaving;

(ix) The process through which the operations plan can be amended by Sector members;

(x) If the Sector plans to authorize non-Sector vessels to harvest scallops allocated to the Sector, details of such arrangements must be described in the operations plan;

(xi) Any documents and analyses necessary to comply with the National Environmental Protection Act must be submitted to NMFS. The development of the analytical document is the responsibility of the applicants.

(xii) Any other information determined to be necessary and appropriate.

(d) *Sector review, approval, and revocation.* (1) A Sector shall submit its operations plan and any NEPA documents to the Regional Administrator and the Council no less than 1 year prior to the date that it wishes to begin operations under the Sector. The Council shall consider this plan in the course of the periodic framework adjustment or specification process and may, if approved, implement it through either of those processes. After Council approval of a Sector, the details of its operation shall be addressed between the Sector and NMFS, although the New England Fishery Management Council may review and provide comment on the proposed details.

(2) The Regional Administrator may withdraw approval of a Sector at any time if he/she, in consultation with the New England Fishery Management Council, determines that Sector participants are not complying with the requirements of an approved operations plan or that the continuation of the operations plan will undermine achievement of fishing mortality objectives of the FMP. Withdrawal of approval of a Sector shall be completed after notice and comment rulemaking, pursuant to the Administrative Procedure Act.

(3) A Sector is required to resubmit its operations plan to the Regional Administrator no later than July 1 of

each year, whether or not the plan has changed. Once the submission documents specified under paragraphs (a)(1) and (c)(2) of this section have been determined to comply with the requirements of this section, NMFS may consult with the Council and shall approve or disapprove Sector operations consistent with applicable law.

[73 FR 20131, Apr. 14, 2008]

§ 648.64 Yellowtail flounder sub-ACLs and AMs for the scallop fishery.

(a) As specified in § 648.55(d), and pursuant to the biennial framework adjustment process specified in § 648.90, the scallop fishery shall be allocated a sub-ACL for the Georges Bank and Southern New England/Mid-Atlantic stocks of yellowtail flounder. The sub-ACL for the 2011 through 2013 fishing years are as follows:

(1) *2011.* 82 mt for the Southern New England/Mid-Atlantic stock of yellowtail flounder and 200.8 mt for the Georges Bank stock of yellowtail flounder.

(2) *2012.* 127 mt for the Southern New England/Mid-Atlantic stock of yellowtail flounder and 307.5 mt for the Georges Bank stock of yellowtail flounder.

(3) *2013.* To be determined.

(b) *Georges Bank accountability measure.* (1) If the Georges Bank yellowtail flounder sub-ACL for the scallop fishery is exceeded, the area defined by the following coordinates shall be closed to scallop fishing by vessels issued a limited access scallop permit for the period of time specified in paragraph (b)(2) of this section:

GEORGES BANK YELLOWTAIL CLOSURE

Point	N. lat.	W. long.
GBYT AM 1	41°50'	66°51.94'
GBYT AM 2	40°30.75'	65°44.96'
GBYT AM 3	40°30'	66°40'
GBYT AM 4	40°40'	66°40'
GBYT AM 5	40°40'	66°50'
GBYT AM 6	40°50'	66°50'
GBYT AM 7	40°50'	67°00'
GBYT AM 8	41°00'	67°00'
GBYT AM 9	41°00'	67°20'
GBYT AM 10	41°10'	67°20'
GBYT AM 11	41°10'	67°40'
GBYT AM 12	41°50'	67°40'
GBYT AM 1	41°50'	66°51.94'

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(2) *Duration of closure.* The Georges Bank yellowtail flounder accountability measure closed area shall remain closed for the period of time, not to exceed 1 fishing year, as specified for the corresponding percent overage of the Georges Bank yellowtail flounder sub-ACL, as follows:

(i) For years when the Closed Area II Sea Scallop Access Area is open, the closure duration shall be:

Percent overage of YTF sub-ACL	Length of closure
1	March through May.
2–24	March through June.
25–38	March through July.
39–57	March through August.
58–63	March through September.
64–65	March through October.
66–68	March through November.
69	March through December.
70 and higher	March through February.

(ii) For fishing years when the Closed Area II Sea Scallop Access Area is closed to scallop fishing, the closure duration shall be:

Percent overage of YTF sub-ACL	Length of closure
1	March through May.
2	March through June.
3	March through July.
4–5	March through August.
6 and higher	March through February.

(c) *Southern New England/Mid-Atlantic accountability measure.* (1) If the Southern New England/Mid-Atlantic yellowtail flounder sub-ACL for the scallop fishery is exceeded, the area defined by the following coordinates shall be closed to scallop fishing by vessels issued a limited access scallop permit for the period of time specified in paragraph (c)(2) of this section:

SOUTHERN NEW ENGLAND YELLOWTAIL CLOSURE

Point	N. lat.	W. long.
SNEYT AM 1	41°28.4'	71°10.25'
SNEYT AM 2	41°28.57'	71°10'
SNEYT AM 3	41°20'	71°10'
SNEYT AM 4	41°20'	70°50'
SNEYT AM 5	41°20'	70°30'
SNEYT AM 6	41°18'	70°15'
SNEYT AM 7	41°17.69'	70°12.54'
SNEYT AM 8	41°14.73'	70°00'
SNEYT AM 9	39°50'	70°00'
SNEYT AM 10	39°50'	71°00'
SNEYT AM 11	39°50'	71°40'
SNEYT AM 12	40°00'	71°40'
SNEYT AM 13	40°00'	73°00'
SNEYT AM 14	40°41.23'	73°00'
SNEYT AM 15	41°00'	71°55'
SNEYT AM 16	41°00'	71°40'
SNEYT AM 17	41°20'	71°40'
SNEYT AM 18	41°21.15'	71°40'

(2) *Duration of closure.* The Southern New England/Mid-Atlantic yellowtail flounder accountability measure closed area shall remain closed for the period of time, not to exceed 1 fishing year, as specified for the corresponding percent overage of the Southern New England/Mid-Atlantic yellowtail flounder sub-ACL, as follows:

Percent overage of YTF sub-ACL	Length of closure
1–2	March.
3–5	March and April.
6–8	March through May.
9–12	March through June.
13–14	March through July.
15	March through August.
16	March through September.
17	March through October.
18	March through November.
19	March through January.
20 and higher	March through February.

(d) *Exemption for LAGC IFQ vessels.* Vessels issued an LAGC IFQ permit and fishing under the LAGC IFQ scallop fishery shall be exempt from the closure(s) specified in paragraphs (b) and (c) of this section. Yellowtail bycatch by such vessels shall be counted against the applicable yellowtail flounder sub-ACL specified in paragraph (a) of this section.

(e) *Process for implementing the AM.* On or about January 15 of each year,

the Regional Administrator shall determine whether a yellowtail flounder sub-ACL was exceeded, or is projected to be exceeded, by scallop vessels prior to the end of the scallop fishing year ending on February 28/29. The determination shall include the amount of the overage or projected amount of the overage, specified as a percentage of the overall sub-ACL for the applicable yellowtail flounder stock, in accordance with the values specified in paragraph (a) of this section. The Regional Administrator shall implement the AM in accordance with the APA and notify owners of limited access scallop vessels by letter identifying the length of the closure and a summary of the yellowtail flounder catch, overage, and projection that resulted in the closure.

(f) *AM for the 2011 fishing year.* AMs shall be applied in the 2011 fishing year for any overage of the applicable yellowtail flounder stock's total ACL in the 2010 fishing year in accordance with the APA. If a 2010 yellowtail flounder subcomponent catch allocation was exceeded in the 2010 fishing year, and that overage caused the total yellowtail flounder ACL for that stock specified in accordance with § 648.90(a)(4) and § 648.90(a)(6) to be exceeded, the Regional Administrator shall implement the yellowtail flounder AM closure for the area, as defined in paragraph (b)(1) or (c)(1) of this section as soon as practicable after the effective date of this regulation. The closure shall be effective on the date specified by the Regional Administrator and the area shall remain closed for a period of time equal to the period of time specified in paragraphs (b)(2)(i)(A), (b)(2)(i)(B), or (c)(2) of this section, as applicable. For example, if the overage is 3 to 5 percent for the Southern New England/Mid-Atlantic yellowtail stock, and the closure is effective beginning July 15, 2011, the closure shall remain in effect through September 15, 2011, a 2-month period equivalent to the March–April, 2-month closure specified in paragraph (c)(2) of this section.

[76 FR 43770, July 21, 2011]

Subpart E—Management Measures for the Atlantic Surf Clam and Ocean Quahog Fisheries

§ 648.70 Annual individual allocations.

(a) *General.* (1) Each fishing year, the Regional Administrator shall determine the initial allocation of surfclams and ocean quahogs for the next fishing year for each allocation holder owning an allocation pursuant to paragraph (a)(2) of this section. For each species, the initial allocation for the next fishing year is calculated by multiplying the allocation percentage owned by each allocation owner as of the last day of the previous fishing year in which allocation owners are permitted to permanently transfer allocation percentage pursuant to paragraph (b) of this section (i.e., October 15 of every year), by the quota specified by the Regional Administrator pursuant to § 648.71. The total number of bushels of allocation shall be divided by 32 to determine the appropriate number of cage tags to be issued or acquired under § 648.75. Amounts of allocation 0.5 or smaller created by this division shall be rounded downward to the nearest whole number, and amounts of allocation greater than 0.5 created by this division shall be rounded upward to the nearest whole number, so that allocations are specified in whole cages. These allocations shall be made in the form of an allocation permit specifying the allocation percentage and the allocation in bushels and cage tags for each species. An allocation permit is only valid for the entity for which it is issued. Such permits shall be issued on or before December 15, to allow allocation owners to purchase cage tags from a vendor specified by the Regional Administrator pursuant to § 648.75(b).

(2) The Regional Administrator may, after publication of a fee notification in the FEDERAL REGISTER, charge a permit fee before issuance of the permit to recover administrative expenses. Failure to pay the fee will preclude issuance of the permit.

(b) *Transfers.*—(1) *Allocation percentage.* Subject to the approval of the Regional Administrator, part or all of an allocation percentage may be transferred in the year in which the transfer